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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,871	10/19/2001	Gerhard Koelle	1770	8878

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EXAMINER

SHRIVER II, JAMES A

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/030,871	Applicant(s) KOELLE ET AL.
	Examiner J. Allen Shriver	Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on October 19, 2001 has been considered by the examiner.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In this case, the Abstract contains the phrase "the invention means" which should be avoided.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

4. The drawings are objected to because in Figures 2 and 3, the charts do not have the axis shown properly labeled. A proposed drawing correction or corrected drawings are required in

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reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. **Claims 4, 9, 11-12 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.** The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In regards to claim 4, the specification does not disclose how the performance graphs are varied adaptively.

Regarding claim 9, the specification and drawings do not convey where the sensors are located and how they operate.

Regarding claims 11-12, the specification and drawings do not convey how the vehicle brake is actuated and released in relation the claimed exceptional state and the operating condition of the engine.

Regarding claim 16, the specification and drawings do not adequately disclose how the automatic start-stop control device operates.

7. 35 U.S.C. 112, first paragraph, requires the specification and claims to be written in "full, clear, concise, and exact terms." The claims are replete with terms, which are not clear, concise

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and exact. The claims should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: It seems to the Examiner that the dependency of all the claims back to only independent claim 1 is improper, because the limitations of most of the dependent claims refer to limitations set forth in preceding dependent claims. Therefore, the subsequent dependent claims are missing essential subject matter from the preceding dependent claims, which makes the scope of the claims indefinite and unclear. This is evident because of all the antecedent basis problems listed below.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

9. **Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** In claim 1, lines 2-3, the phrase “having an electric machine (2), which upon starting of the engine (1) generates a torque ...” is unclear because Examiner is unsure whether the electric machine or the engine generates a torque. Lines 7-13 of claim 1, starting with the phrase “upon starting of the engine ...” is indefinite because Examiner does not understand why, after the engine has been started, that a second part of the torque generated by the electric machine (motor) is transmitted to the engine for starting purposes.

Claim 3 in its entirety is vague and indefinite because Examiner cannot determine what is precisely trying to be claimed.

Claims 2 and 5 are indefinite because claim 2 characterizes the means (5) as a control device, then claim 5 re-characterizes the means as a regulating device.

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10. Claim 4 recites the limitation "the performance graphs" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 6 recites the limitation "the regulating device" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 7 recites the limitation "the rotational irregularities" in line 2. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 8 recites the limitation "the regulating device" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 9 recites the limitation "the sensors" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 10 recites the limitations "the exceptional state" in lines 1-2, "the sensors" in line 2 and "the driver" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 11 recites the limitation "the exceptional state" in line 3. There is insufficient antecedent basis for this limitation in the claim.

17. Claim 12 recites the limitation "the vehicle brake" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

18. Claim 13 recites the limitation "the regulating device" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 15 recites the limitations "the regulating device" in lines 1-2 and "the automatic clutch" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

20. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

21. **Claims 1 and 18-19, as best understood, is rejected under 35 U.S.C. 102(e) as being anticipated by Koneda et al. (US Patent 6,585,066 B1).** Koneda et al. discloses a drive train for a motor vehicle, having an internal combustion engine (10), having an electric machine (See Fig. 1a), which upon starting of the engine generates a torque, and having a clutch (32), which is disposed between the engine and a gear train (12) by way of which a torque generated by the engine can be transmitted to at least one vehicle drive wheel, characterized in that means are provided, which upon starting of the engine can actuate the clutch in such a way that a first part of the torque generated upon starting of the engine by the electric machine is transmitted to the at least one vehicle drive wheel, and a second part of the torque generated by the electric machine and sufficient for starting the engine is transmitted to the engine, characterized in the that electric machine is a starter and/or generator.

22. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. **Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koneda et al. (US Patent 6,585,066 B1).** Koneda et al. discloses the drive train as set forth above, but does not specifically disclose wherein the means is a control/regulating device. Even though Koneda et al. is silent as to a control device, it would have been obvious to a person of ordinary skill in this art to provide Koneda et al. with a control device in order to control the operation of the clutch, which directs the torque produced by the electric motor.

Allowable Subject Matter

25. Claims 4, 9, 11-12 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and second paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

26. Claims 3, 6-8, 10, 13-15 and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

27. The prior art made of record in the accompanying PTO Form 982 and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

J. Allen Shriver
Examiner
Art Unit 3618

JAS
August 5, 2003


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SUPERVISORY PATENT EXAMINER 8/6/03
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